

REMARKS

In light of the above-amendatory matter and remarks to follows, reconsideration and allowance of this application are respectfully requested.

Claim 2 was objected to because of an informality. Claim 2 has been amended to change "form" to --from--, in accordance with the examiner's suggestion. It is requested that the objection to claim 2 be withdrawn.

Claims 1, 10, 11 and 18 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner asserts that the conditional statement set forth in claims 1, 11 and 18 renders these claims indefinite. These claims have been amended to remove the conditional statement, namely, the phrase "if said token has been previously used" has been removed. This amendment now renders these claims definite, and also renders claim 10 definite. It is requested that the rejection of claims 1, 10, 11 and 18 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 1-9 and 11-18 were rejected under 35 U.S.C. 103(a) as being unpatenable over Hill (US 6,236,981) in view of Colvin, Sr. (US 5,825,881) and further in view of Krsul et al. (US 5,839,119). Applicant respectfully traverses this rejection.

Firstly, the feature of determining an amount paid by the consumer to a previous merchant, as set forth in each of the independent claims 1, 11 and 18, must be given patentable weight. None of the cited references disclose this feature and,

thus, these claims are patentable over Hill, Colvin and Krsul, taken alone or in combination with one another.

Secondly, it is submitted that one of ordinary skill in the art would not have combined Hill and Colvin in the manner proposed by the examiner. Specifically, the examiner acknowledges that neither Hill nor Colvin teach that the update key is used as an authorization to modify the value of the token, but the examiner asserts that it would have been obvious to do so (office action, page 3 bottom to page 4 top). It is submitted that such assertion uses the teachings of the present invention to enable the examiner to perform a hindsight reconstruction of the prior art to support the examiner's position of obviousness, which is clearly improper. Hill does not teach or otherwise disclose the use of an update key. Colvin likewise does not involve an update key. Rather, Colvin discloses requesting a new key from a master key server when the "secured keys get out of sync" (col. 7, lines 61-62). Since there is no suggestion or even any motivation in Colvin to utilize the disclosed key for the purpose of modifying a token, the prior art clearly lacks the necessary teaching to support the examiner's position.

Moreover, one of ordinary skill in the art would not combine Colvin with Hill. While both relate to conducting commercial transactions over a network, such as the Internet, Hill employs tokens whereas Colvin does not. Colvin instead simply requests that the user utilize a credit card or ATM card to pay for the items selected (col. 6, lines 15-24). The key employed in Colvin thus does not relate or involve token use, but rather provides additional security relating to the transfer of confidential information. In the present invention, an update key is provided to allow

a token value to be modified. Hill does not perform any such modification of tokens and thus clearly does not utilize a key to carry out this function. Colvin does not employ tokens and discusses keys in relation to general security of communicating information between the parties. Thus, even if one of ordinary skill in the art somehow combines the teaching of Hill and Colvin, the resultant combination thereof would not provide applicant's claimed invention.

From the foregoing discussion, it is submitted that applicant's claimed invention is not obvious in view of the prior art. As for the Krsul reference (applied to claim 16), this reference also does not provide any sufficient teaching to make obvious the present invention as recited in independent claims 1, 11 and 18. It is noted that Krsul discloses splitting a token into two "halves," where one is supplied to a buyer, the other to the seller. Then, for a token half supplied by the buyer to be authentic, the seller must have the other half. Krsul does not teach or suggest the aforementioned deficiencies of Hill and Colvin.

In view of the foregoing discussion, it is submitted that claims 1, 11 and 18, and claims 1-10 and 12-17 since they depend from one of these claims, are patentably distinct and unobvious in view of the cited prior art. It is therefore requested that the rejection of these claims under 35 U.S.C. 103(a) be withdrawn.

Moreover, it is submitted that the particular limitations set forth in claims 5, 6, 9, 10, 12, and 16 are not disclosed, either individually or collectively, in the cited prior art, as discussed below.

Claim 5 sets forth the use of a cash card as the financial instrument. While a cash card may seem to be obvious, as proposed by the examiner, it would not have

been obvious to be able to purchase a token using a cash card since a cash card does not identify the user, whereas all of the cited prior art clearly provides that user identification information is provided.

Claim 6 sets forth that the consumer retrieves a previously purchased token from the clearing server. The claim explicitly provides that the token being retrieved was already purchased. The cited prior art does not teach such a feature, but simply that a token is provided upon purchase. It is noted that the sections in Hill referenced by the examiner refer to initial purchase or purchase of additional value to be added and, thus, such teachings are inapposite to claim 6.

Claim 9 sets forth combining prices of all selected items into a single, total price, then rejecting the transaction if the token is less than the total price, and also communicating to the clearing server the total price and a request for an update key. The examiner acknowledges that the prior art does not disclose any of the features, but nevertheless asserts that they are all obvious. It is submitted that to support a position of obviousness, it is incumbent upon the examiner to find a suitable reference (or at least multiple references) that discloses these features.

Claim 10 was not substantively considered. In light of the amendment to claim 1, it is submitted that claim 10 should be substantively examined and found patentable over the prior art since none of the cited prior art discloses polling a previous merchant as set forth in the claim.

Claim 12 has been amended to recite that the token is maintained only in random access memory of the consumer's computing device. Support for this amendment is set forth in the specification on page 17, lines 3-7. The specification

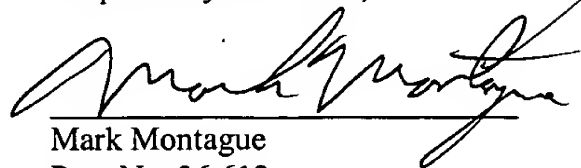
sets forth that if the computer is shut down, the token will be lost. Also, it is difficult to access a token stored in random access memory, as opposed to a more permanent (i.e., non-volatile) storage medium (e.g., a hard drive) so that the token cannot be accessed (or is much more difficult to access) by other software (specification, page 22, line 27 - page 23, line 1). It is submitted that none of the cited prior art discloses the limitations set forth in claim 12.

Claim 16 sets forth comparing tokens to determine an amount paid. The Examiner relies on Krsul to allegedly disclose this feature. However, Krsul teaches comparing tokens to determine if a token is authentic. The present invention, however, compares the token to determine an amount already paid to a previous merchant. Clearly a different function.

New claims 19-27 are presented. Support for the features set forth in claims 22-26 is set forth in the specification on page 17, lines 3-7. In light of the discussion above, it is submitted that these newly added claims are patentably distinct and unobvious over the prior art. The allowance of claims 19-27 is solicited.

In light of the foregoing, reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,



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